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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,678

09/28/2006

John Kerry

36-2025

2212

23117

7590

08/06/2008

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
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EXAMINER

WONG, ERIC K

ART UNIT

PAPER NUMBER

2883

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,678	Applicant(s) KERRY ET AL.	
	Examiner Eric Wong	Art Unit 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims rejected in the prior office action have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication US 2006/0153516 to Napiorkowski et al (hereinafter '516)
'516 discloses an installation for terminating a network cable of a public communications network at customer premises, the installation comprising:

- A termination means for terminating the network cable at a point where a network access provider's responsibility ends (paragraph 4);
- Connection means allowing a connection to be made between the public communication network and the customer premises via the termination means (paragraph 5 and 60; figure 4);
- A first openable and closeable access aperture (30; figure 1) to permit access to the termination means from outside the customer premises.

As to claims 6-7, the cable is an optical fiber cable and splice.

As to claim 8, bend radius limiting arcuate walls (226) are disclosed in paragraph 56.

As to claim 9, the NID supports copper, or fiber communication services.

However, '516 fails to explicitly disclose a second openable and closeable access aperture to permit access to the termination means from within the customer premises.

It is noted that '516 discloses that the network interface device (NID) may be mounted inside **or** outside the customer premises. Further, it is disclosed that the NID is scaleable to add subscribers. By providing interior access to the NID, additional subscribers may be added, such as that in an apartment building rather than a single family home.

It is further noted that it has been held that mere duplication of the essential working parts of a device only requires routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a duplicate or secondary network interface device within a customer premises to add scalability and access to a network device and further because to duplicate such a device would be routine to one having ordinary skill in the art.

4. Claims 2-5 rejected under 35 U.S.C. 103(a) as being unpatentable over '516 and further in view of United States Patent Application Publication US 2002/0031942 to Magyar et al (hereinafter Magyar).

'516 discloses the invention as claimed except for replacing a brick or similar type structure with the network interface device.

Magyar discloses such a junction box type device which replaces brick or similar structures for aesthetic reasons.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the NID to match the structural appearance of a wall for aesthetic reasons.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over ‘516

‘516. discloses the invention as claimed except for a solar power supply. It is noted that attaching and supplying solar power to an already established electrical power system is well known in the art.

Romano et al. teaches such a well known power backup system. When supplied electrical power is interrupted, solar power is used to backup the system to ensure there are no outages. Supplementing solar to already known optical network terminals with batteries (such as US 2004/0268160) would have been within the level of skill of one having ordinary skill in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to supply a solar power backup to an electrical system in order to prevent service interruptions.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is (571)272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Wong/
Examiner, Art Unit 2883

/Frank G Font/
Supervisory Patent Examiner, Art Unit 2883

FGF/ew